

Michigan Department of Civil Service

REGULATION

Appointing Authority Letter Reference:	Effective Date: August 20, 2000	Index Reference:	Regulation Number: 5.12
Issuing Bureau: Human Resource Services	Rule Reference: Chapter 5 <u>Civil Service Commission Rule 5-6.9</u>		Replaces: Compensation Procedure 13
Subject: SEVERANCE PAY			

1. PURPOSE

A. This regulation establishes the standards and procedures for severance payment for eligible non-exclusively represented employees.

2. CIVIL SERVICE COMMISSION RULE REFERENCE

A. Rule 5-6.9 Severance Pay

(a) Eligibility.

(1) Employees. The following employees are eligible for severance pay if they meet the criteria in subsection (a)(2) and are not disqualified by the criteria in subsection (a)(3):

(a) An “agency based” employee of the department of community health laid off because of deinstitutionalization of the department of community health resident population after October 1, 1996.

(b) A nonexclusively represented employee who is indefinitely laid off on or after October 1, 1995.

(2) Criteria. An employee is eligible if the employee was (1) laid off for at least 6 months, (2) was laid off in satisfactory employment status, and (3) was not separated from a temporary or limited-term appointment.

(3) Disqualification. An otherwise eligible employee is disqualified from receiving severance pay for any of the following reasons:

- (A) The employee dies before accepting payment.
- (B) The employee is hired in any position in the classified service.
- (C) The employee refuses recall to state employment located within a 75-mile radius of the agency from which the employee was laid off.
- (D) The employee is recalled to an indefinite appointment in a position covered by a collective bargaining agreement, in which case the agreement controls.
- (E) The employee is hired for any position outside of the classified service and the initial base hourly rate for the position is 75 percent or more of the employee's final base hourly rate in the position from which the employee was laid off.
- (b) Time limits. The appointing authority shall notify an employee of the employee's severance pay option 6 months and 12 months after the layoff.
- (1) The employee may accept in writing the lump sum severance payment at any time after the first notice until 14 calendar days after the second notice. The employee is deemed to have rejected severance pay if the employee does not timely accept the severance pay in writing.
- (2) If the employee accepts severance pay, the appointing authority shall pay the employee within 60 calendar days and remove the employee's name from all recall and layoff lists.
- (3) Acceptance of severance pay constitutes a break in service and terminates any rights to continuous service credits for any purpose, including annual leave accrual and longevity.
- (c) Severance pay rates. The severance payment for an eligible employee who accepts severance pay is determined by the regulations and the following table:

<u>Years of Service</u>	<u>Weeks of Severance Pay</u>
<u>1</u>	<u>1</u>
<u>2</u>	<u>2</u>
<u>3</u>	<u>3</u>
<u>4</u>	<u>4</u>
<u>5</u>	<u>5</u>
<u>6</u>	<u>7</u>
<u>7</u>	<u>9</u>
<u>8</u>	<u>11</u>
<u>9</u>	<u>13</u>
<u>10</u>	<u>15</u>

<u>11</u>	<u>18</u>
<u>12</u>	<u>21</u>
<u>13</u>	<u>24</u>
<u>14</u>	<u>27</u>
<u>15</u>	<u>30</u>
<u>16</u>	<u>33</u>
<u>17</u>	<u>36</u>
<u>18</u>	<u>39</u>
<u>19</u>	<u>42</u>
<u>20</u>	<u>45</u>
<u>21</u>	<u>48</u>
<u>22</u>	<u>51</u>
<u>23 or more</u>	<u>52</u>

(d) If an employee receives a severance payment, the employee may be rehired in the classified service only under the conditions provided in the regulations.

3. STANDARDSDEFINITIONS

A. Definitions

1.A. Severance Payment — A lump sum payment in accordance with the approved pay schedule granted to eligible employees in return for forfeiting all recall rights.

2.B. Layoff — Termination of active state employment solely as a direct result of a reduction in force.

3.C. Week's Pay — An employee's gross pay for ~~forty (40)~~ hours of work at straight time rates excluding premiums, such as shift differential and "P" rate.

4.D. Year of Service — One year of seniority (2,080 hours) as defined in the ~~payroll personnel system~~ HRMN "continuous service hours" counter.

4. STANDARDS

B.A. Eligibility

1. Department of Community Health "agency-based" employees who meet the eligibility criteria of Standard ~~H-CA 3~~ are eligible for severance pay if they have been laid off because of deinstitutionalization of the Department of

Community Health resident population after ~~September 30, 1982~~October 1, 1996.

2. ~~Managerial, Supervisory, Confidential, and Business and Administrative Unit~~A non-exclusively represented employees who meets the eligibility criteria of Standard ~~II-CA 3~~ who ~~are~~is indefinitely laid off on or after October 1, 1995 ~~will be eligible for severance payments on or after October 1, 1996~~.
3. Employees who meet the above eligibility criteria are eligible for severance pay if: they have more than one year of state service at time of layoff; have been laid off for ~~six (6)~~ months or more; are in satisfactory employment status; and are not in a temporary or limited term appointment.
4. Otherwise eligible employees ~~shall be~~are disqualified from receiving severance pay under any of the following conditions:
 - a. The employee dies before accepting payment.
 - b. The employee is hired for any position within the State classified service.
 - (1) Disqualification occurs upon date of hire, unless the new position requires completion of a probationary period.
 - (2) Disqualification occurs upon completion of probationary period, where one is required.

Note: If the required probationary period is not completed and the employee is separated, such time of employment shall be bridged for purposes of the time limits for severance pay.

 - c. The employee refuses recall to state employment located within a ~~seventy-five (75)~~ mile radius of the ~~agency~~department from which laid off.
 - d. The employee is permanently recalled to another job in state government covered by a collective bargaining agreement, in which case the agreement will control.
 - e. If the employee is hired for any position outside of the State classified Civil Service and the initial base hourly rate for that new employment is 75 percent or more of the employee's final base hourly rate of the position from which she/he was laid off.

C.B. Time Limitations — The department ~~shall~~must notify eligible employees of the option of severance pay after ~~six (6)~~ months of layoff, and again after ~~twelve (12)~~ months of layoff, ~~of the option of severance pay~~.

1. The employee may accept in writing the lump sum severance payment at any time from receipt of first notice until ~~fourteen (14)~~ calendar days after receipt of second notice. An employee who does not accept severance payment in writing within the prescribed time frame ~~shall be~~is deemed to have permanently rejected ~~such~~the payment.
2. If payment is accepted, the department ~~shall~~must, within ~~sixty (60)~~ calendar days, make payment to the employee and remove the employee's name from all recall and layoff lists (including placement referral lists).
3. Acceptance of severance pay constitutes a break in service and terminates rights to continuous service credits for all purposes, including annual leave accrual rate and longevity.

D.C. Amount of Severance Pay — Eligible employees who accept severance payment ~~shall~~will be paid ~~according to the following schedule:~~in accordance with the Severance Pay Table.

SEVERANCE PAY SCHEDULE

<u>Hours</u>	<u>Years</u>	<u>Week's Pay</u>
2088 - 4176	1	1
4177 - 6264	2	2
6265 - 8352	3	3
8353 - 10440	4	4
10441 - 12528	5	5
12529 - 14616	6	7
14617 - 16704	7	9
16705 - 18792	8	11
18793 - 20880	9	13
20881 - 22968	10	15
22969 - 25056	11	18
25057 - 27144	12	21
27145 - 29232	13	24
29233 - 31320	14	27
31321 - 33408	15	30
33409 - 35496	16	33
35497 - 37584	17	36

37585 → 39672	18	39
39673 → 41760	19	42
41761 → 43848	20	45
43849 → 45936	21	48
45937 → 48024	22	51
48025 → 50112	23	52
50113 → 52200	24	52
52201 → 54288	25	etc.

1. The employer ~~shall~~deducts from the severance payment any amount required to be withheld by reason of law or regulation for payment of taxes to federal, state, county, or municipal government.
2. Eligible employees who work less than full time (80 hours per pay period) ~~shall~~will receive a proportional severance payment in accordance with the following formula:

The ~~Agency shall~~appointing authority calculates the average number of hours the employee worked for the calendar year preceding layoff. This number ~~shall be~~is used to determine the proportion of time in relation to full-time employment. This proportion ~~shall~~is then ~~be~~ applied to the ~~above~~ payment schedule for purposes of payment. (See following example.)

EXAMPLE OF SEVERANCE PAY FOR LESS THAN FULL TIME EMPLOYEE

Average number of hours worked in previous calendar year: 1,980 hours
 Full time employee hours: 2,088 hours
 Proportion (or percentage): $1,980 = 94.8\%$ of 2,088
 $.948 \times \text{Severance Payment from Schedule} = \$ \text{Gross Amount to be paid.}$

E.D. Return to State Service

1. An employee recalled to state service before exercising the option of severance pay.
 - a. An employee temporarily recalled for less than ~~sixty (60)~~ calendar days ~~shall~~will have ~~such~~this time bridged for purposes of counting the time in accordance with ~~p~~Paragraph HA above.
 - b. An employee permanently [more than ~~sixty (60)~~ calendar days] recalled to a position qualifying for severance pay, and subsequently laid off, ~~shall~~beis eligible for severance pay, provided the employee meets all of the

requirements of this procedure. The time limits ~~shall be~~are applied from the date of the most recent layoff.

2. An employee who has received severance payment and is rehired into state service.

a. An employee rehired after two years have elapsed since receipt of severance payment ~~shall be~~is treated as any other employee who has separated and returns to state employment.

b. An employee who returns within two years of acceptance of severance payment ~~shall~~will:

(1) Repay the state the net amount of the severance payment received.

(a) The employee ~~shall have~~has a twelve month period in which to make repayment to the ~~agency~~department from which severance payment was received.

(b) Time limitations for repayment ~~shall~~ begin with the date of return to state service, or upon completion of probationary period, if required.

(c) The method and time schedule for repayment ~~shall~~must be documented in a written agreement between the employee and the ~~agency~~appointing authority.

(2) Have current hours restored from prior service hours when repayment of severance pay is made in full.

F.E. Effect on Retirement — The acceptance or rejection of severance pay will have no effect on vested pension rights under the retirement act. Severance payment will not be included in the computation of compensation for the purpose of calculating retirement benefits.

5. PROCEDURES

A. Payment

1. ~~Departments shall~~The appointing authority must notify eligible employees in writing of the option of severance pay at the completion of six months of layoff and again at the completion of twelve months of layoff.

2. Upon receipt of a laid-off employee's written acceptance of the severance pay option, the ~~department shall~~appointing authority must:
 - a. Provide for payment to the employee by having the necessary forms completed and gross pay adjustment processed.
 - b. Immediately provide copies of the severance pay form to the Office of the State Employer and the Department of Civil Service for removal of the name from all ~~layoff and~~ recall lists ~~(including placement referral lists)~~.

Note: A laid-off worker whose name is currently ~~referred for employment~~included in a candidate pool for consideration ~~by certification~~ at the time the Office of the State Employer or Department of Civil Service receives notification of the severance payment ~~shall~~ remains eligible for appointment ~~until such certification expires~~.

B. Rehire

1. After more than two years have elapsed since an employee has received severance payment, the employee ~~shall~~is only ~~be~~ returned to the state service as either a new hire or a reinstatement in accordance with regular procedures for such appointments. All state service time prior to receipt of severance pay ~~shall be~~is transferred to the prior service counter, and cannot be restored as continuous service credit under any condition.
2. If an employee who has received severance pay is returned to state service within two years from the date of receipt of such payment, the employee ~~shall be~~is subject to the following:
 - a. The employee ~~shall~~is initially ~~be~~ returned to state service as a reinstatement. Current continuous service time which existed at the time of the severance payment ~~shall be~~is transferred to the prior service counter.
 - b. If the employee returns to state service in a different calendar year from the one in which the payment was made, the employee ~~shall be~~is credited with an initial annual leave grant of 16 hours. The employee ~~shall be~~is credited with annual leave at the rate of four hours for each 80 hours of completed service in the same manner as a new hire.
 - c. The employee ~~shall be~~is notified in writing that contact must be made with the personnel office of the department from which the severance payment

was made, to arrange for a repayment schedule for both severance payment, as well as sick leave repayment (if applicable).

- d. The employee ~~shall~~must notify the current department in writing of the arrangements that have been made and the time frame within which they are to be completed.
- e. The employee will be treated as a newly reinstated employee during the entire period of repayment. This means the employee ~~shall~~accrues annual leave at the rate of four hours for each 80 hours of paid service and, even if the employee had been previously eligible for longevity payment, ~~shall~~does not receive credit for this period of time towards annual longevity payment.
- f. At the completion of repayment, the employee's current department will, ~~by comment in the personnel system,~~ change the reinstatement to a return from layoff.
 - (1) The department will restore to the ~~current~~continuous service hours counter from the prior service hours counter, those hours the employee had in the ~~current~~continuous service hours counter at the time the severance payment was made.
 - (2) The department ~~shall~~will recredit all sick leave hours the employee had at the time that the severance payment was made.
 - (3) If the employee, qualified for an initial longevity payment, but had not received one before being laid-off, the department ~~shall~~must make ~~such~~this initial payment to the employee.
 - (4) If the employee, previously qualified for longevity, returns in one fiscal year and completes repayment in another, the department ~~shall~~must make a pro-rata longevity payment to the employee for such hours worked in the previous fiscal year.
 - ~~(5) If the employee had previously qualified for longevity, and had hours in the longevity counter at the time of layoff, for which the employee had not received a pro-rata payment in accordance with the longevity procedures (the employee returns to state service within the same longevity year as laid-off) the department shall restore these hours to the employee's longevity counter.~~

~~(6) If the employee had previously qualified for longevity, the department will add hours worked since return to state service in the current fiscal year to the longevity counter.~~

~~(7)~~(5) When the employee has made complete and total repayment of severance pay and the department has made the necessary adjustments in the employee's history and hours counters, the employee ~~shall become~~is eligible to buy back paid off annual leave. The eligibility and time limits of the employee to make ~~such~~at this purchase will commence from the date that the final repayment of severance pay is made. All regular procedures for ~~such~~ buy back ~~shall~~must be followed.

3. Under no circumstances will the department do any of the following:
 - a. Make any adjustment in the 16 hour initial annual leave grant.
 - b. Retroactively adjust the annual leave counter for any differences that may have occurred between the accrual rate (for each 80 hours of service) the employee had been receiving while making repayment and the accrual rate the employee would have received, based on the service hours after restoration.
 - c. Allow the employee to use any recredited sick leave hours for any lost time the employee may have due to illness during the period of repayment.
4. The employee will not be placed on any recall lists.

CONTACT

Questions regarding this regulation should be directed to the Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909, (517) 335-7862 or (517) 373-7618, or MDCS@state.mi.us.

NOTE: Regulations are issued by the State Personnel Director under authority granted in the State of Michigan Constitution and the Michigan Civil Service Commission Rules. Regulations that implement Commission Rules are subordinate to those Rules.

<i>August 20, 2000</i>	<i>Severance Pay</i>	<i>Page 11 of 10</i>
------------------------	----------------------	----------------------